



27 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#16

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jean M. Lockyer
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834

In re Application of :
RYBAK, Susanna ET AL. :
Application No.: 09/807,556 :
PCT Application No.: PCT/US99/25737 :
International Filing Date: 01 November 1999 :
Priority Date: 02 November 1998 :
Attorney Docket No.: 015280-371100US :
For: SELECTIVE TOXICITY OF :
AMINO-TERMINAL MODIFIED :
RNASE A SUPERFAMILY :
POLYPEPTIDES :

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

Applicants have filed a "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" in the United States Patent and Trademark Office on 26 March 2004. The petition is DISMISSED as moot.

BACKGROUND

On 01 November 1999, applicants filed international application number PCT/US99/25737, claiming priority to an earlier United States provisional application, filed on 02 November 1998. A demand was timely filed electing the United States of America on 05 April 2000.

On 13 April 2001, applicants timely filed national stage papers in this application, including, *inter alia*, the basic national fee.

Upon issuance of a Notification of Missing Requirements, mailed on 08 May 2001, requiring provision of a signed inventor oath or declaration, applicants provided an acceptable signed oath or declaration on 30 July 2001. Applicants were mailed a Notification of Acceptance FORM PCT/DO/EO/903 on 15 August 2001.

On 23 October 2003, applicants were mailed a Notification to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures FORM PCT/DO/EO/922, for failure to provide a Sequence Listing, CRF Sequence Listing, and accompanying statement of identical disclosure and no new matter. Applicants were given a two-month extendible time period of response.

On 23 October 2003, applicants were also mailed a Withdrawal of Previously Sent Notice that referenced a Notice of Acceptance allegedly mailed on 08 May 2001. The mailing date of the Notice of Acceptance, that should have been referenced, was 15 August 2001.

On 20 February 2004, applicants were mailed a Notification of Abandonment FORM PCT/DO/EO/909 for failure to respond to the Notification mailed on 23 October 2003.

On 26 March 2004, applicants filed this instant petition along with an amendment to enter a paper form Sequence Listing, CRF Sequence Listing, and statement of identical disclosure and no new matter. On 05 April 2004, applicants' CRF Sequence Listing was deemed technically acceptable.

DISCUSSION

The Notification of Abandonment, mailed on 20 February 2004, was issued in error. The Notification to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures FORM PCT/DO/EO/922, mailed on 23 October 2003, provided applicants a two-month extendible time period of response.

Applicants' 26 March 2004 submission provided the materials requested in the Notification to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures FORM PCT/DO/EO/922. Applicants' transmittal letter for these materials authorizes charging applicants' deposit account for additional fees. For applicants' submission to be timely, applicants are required to petition for a three-month extension at \$950, which extension is hereby granted. Accordingly, the instant application was not abandoned.

CONCLUSION

The petition under 37 CFR 1.137(b) is DISMISSED as moot. The Notification of Abandonment FORM PCT/DO/EO/909, mailed on 20 February 2004, is hereby vacated.

This application has an international filing date of 01 November 1999 under 35 USC 363 and a date of 30 July 2001 under 35 USC 371(c)(1), (c)(2), and (c)(4).

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



Michael La Villa
Detailee
Office of PCT Legal Administration
Telephone: (703) 308-6162
Facsimile: (703) 308-6459



Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-3659
Facsimile: (703) 308-6459